

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

In re: Douglas Eugene Blake,
Debtor.

Nationstar Mortgage LLC d/b/a Mr. Cooper,
Movant,

v.

Douglas Eugene Blake,
Debtor,

Charles J. DeHart, III, Trustee,
Additional Respondent.

CHAPTER 7

BANKRUPTCY CASE NUMBER
17-05162/HWV

MOTION TO DISMISS / 11 U.S.C. § 362

**MOTION TO DISMISS CASE, OR, IN THE ALTERNATIVE. RELIEF FROM THE
AUTOMATIC STAY UNDER SECTION 362 (d)**

Nationstar Mortgage LLC d/b/a Mr. Cooper, by and through its counsel, Shapiro & DeNardo, LLC, hereby moves the Court for the entry of an order dismissing the instant bankruptcy case, or, in the alternative, for Relief from the Automatic Stay to exercise and enforce its rights, without limitation, with respect to certain real property, and in support thereof, avers as follows:

1. The Debtor owns real property, which serves as their principal residence, at 1231 Aylesbury Lane, York, PA 17404 (hereinafter "the Property").

2. On October 24, 2012, Debtor executed a note in favor of Mortgage Electronic Registration Systems, Inc., as nominee for Ally Bank Corp., its successors and/or assigns, in the original principal amount of \$247,858.00 (the "Note"). A true and correct copy of the Promissory Note is attached hereto as Exhibit "A".

3. In order to secure the obligation under the Note, Debtor also executed a mortgage on the same date in the amount of \$247,858.00 (the "Mortgage"). The Mortgage was duly recorded in the Office of the Recorder of Deeds of York County on November 16, 2012 at Book

2202, Page 1079, Document ID# 2012059293, et seq. A true and correct copy of the Mortgage is attached hereto as Exhibit "B".

4. Mortgage Electronic Registration Systems, Inc., as nominee for Ally Bank Corp., its successors and/or assigns subsequently assigned the Note and Mortgage to Nationstar Mortgage LLC (the "Assignment"). The Assignment was duly recorded in the Office of the Recorder of Deeds in York County on April 11, 2017 in Book 2416, Page 1846, Instrument No. 2017016071. A true and correct copy of the Assignment is attached hereto as Exhibit "C".

5. Debtor subsequently defaulted under the Note and Mortgage by failing to make the required monthly payment.

DEBTOR'S FIRST CASE

6. On or about September 19, 2017, Debtor filed a petition under Chapter 13 of the Bankruptcy Code in the Middle District of Pennsylvania under case number 17-03868/HWV.

7. On or about November 22, 2017, Movant filed a Motion for Relief ("MFR") because Debtor failed to make all the required monthly mortgage payments.

8. On December 8, 2017, Movant's MFR was granted. A true and correct copy of the Relief Order is attached hereto as Exhibit "D".

9. On or about December 19, 2017, Debtor filed a Motion to Voluntarily Dismiss the case.

10. On December 20, 2017, Debtor's Motion to Voluntarily Dismiss the case was granted. A true and correct copy of the Dismissal Order is attached hereto as Exhibit "E".

DEBTOR IS BARRED FROM REFILING AS A MATTER OF LAW

11. 11 U.S.C. section 109(g)(2) is clear: "...no individual....may be a debtor under this title who has been a debtor in a case pending under this title at any time in the preceding 180

days if...(2) the debtor requested and obtained voluntary dismissal of the case following the filing of a request for relief from the automatic stay provided by section 362 of this title. Case closed, this Court must dismiss the case.

WHEREFORE, Movant respectfully requests that the Court enter an order dismissing the case, or, in the alternative, for Relief from the Automatic Stay to exercise and enforce its rights, without limitation, with respect to the Property and for such further relief as the Court deems appropriate.

Respectfully submitted,

Dated: December 27, 2017

S&D File #:17-056141

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